

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

NICOIS SMITH,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-23-00996-PRW
)	
LOS ANGELES METROPOLITAN)	
DETENTION CENTER,)	
)	
Respondent.)	

ORDER

This matter is before the Court on United States Magistrate Judge Shon T. Erwin’s Report and Recommendation (Dkt. 4). The Court observes that no party has objected to the Report and Recommendation within the time limits prescribed.¹ Having reviewed the matter *de novo*, the Court concurs with Judge Erwin’s conclusions that to the extent Petitioner is challenging his pretrial proceedings and detention, he must first do so within his federal criminal case,² and to the extent he is challenging the conditions of his confinement, he “must do so through a civil rights action.”³ Accordingly, the Court hereby

¹ Petitioner Smith filed two motions before the deadline to object to the Report and Recommendation. However, construing the motions liberally, neither raises an objection to the Report and Recommendation.

² *See Thompson v. Robinson*, 565 F. App’x 738, 739 (10th Cir. 2014). The Court cites unpublished decisions of the Tenth Circuit for their persuasive value, consistent with Tenth Cir. R. 32.1 and Fed. R. App. P. 32.1.

³ *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035 (10th Cir. 2012).

ADOPTS the Report and Recommendation (Dkt. 4) in full, **DISMISSES** the Petition (Dkt. 1) without prejudice, and **DENIES AS MOOT** the pending motions (Dkts. 5, 8).⁴

IT IS SO ORDERED this 23rd day of July 2024.

A handwritten signature in black ink, appearing to read 'P. Wyrick', is written above a horizontal line.

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

⁴ Rule 11(a) of the Rules Governing Section 2254 Cases requires a district court to issue or deny a certificate of appealability (“COA”) when entering a final order adverse to a petitioner. However, “a federal prisoner . . . does not need a COA to appeal a final judgment in a § 2241 case.” *Eldridge v. Berkebile*, 791 F.3d 1239, 1241 (10th Cir. 2015). Accordingly, the Court need not consider a COA in this case.